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**Seneca Falls Foods, LLC d/b/a Seneca Falls IGA and  
United Food and Commercial Workers, Local 1.**  
Case 3–CA–26051

March 26, 2008

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN SCHAMBER AND MEMBER LIEBMAN

The General Counsel seeks default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification. On July 31, 2007, the Board issued a Decision and Order<sup>1</sup> that, among other things, ordered the Respondent to make its unit employees whole for any loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of Section 8(a)(5) and (1) of the Act, and to make all required contributions to the Union's pension and health/welfare funds that have not been made since October 15, 2006.

A controversy having arisen over the amount of backpay due discriminatees and the contributions due the Union's pension and health/welfare funds under the Board's Order, on November 29, 2007, the Regional Director issued a compliance specification and notice of hearing, and an amendment to the compliance specification on December 18, 2007, alleging the amount due under the Board's Order. The amendment to the compliance specification notified the Respondent that it should file an answer by January 8, 2008, complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification and the amendment to the compliance specification, the Respondent failed to file an answer.

By letter dated January 18, 2008, the Region advised the Respondent that no answer to the compliance specification or the amendment to the compliance specification had been received, and that unless an answer was filed by January 29, 2008, a motion for default judgment would be filed. To date, the Respondent has not filed an answer.

On February 12, 2008, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. Thereafter, on February 19, 2008, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion, the compliance specification, and

the amendment to the compliance specification are therefore undisputed.

**Ruling on Motion for Default Judgment<sup>2</sup>**

Section 102.56(a) of the Board's Rules and Regulations provides that the respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification and the amendment to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification and the amendment to the compliance specification to be admitted as true, and we grant the General Counsel's motion for default judgment. Accordingly, we conclude that the net backpay due the discriminatees and the contributions due the Union's funds are as stated in the compliance specification and the amendment to the compliance specification, and we will order the Respondent to pay those amounts to the discriminatees and the Union's funds, plus interest accrued on the backpay amounts to the date of payment.

**ORDER**

The National Labor Relations Board orders that the Respondent, Seneca Falls Foods, LLC d/b/a Seneca Falls IGA, Seneca Falls, New York, its officers, agents, successors, and assigns, shall make the bargaining unit employees listed in Attachments A & B whole, by paying them the amounts of backpay opposite their names, plus interest accrued to the date of payment, as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and State

<sup>1</sup> 350 NLRB No. 47 (2007).

<sup>2</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Schaumber and Member Liebman constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

laws.<sup>3</sup> The Respondent shall also make the bargaining unit employees listed in Attachment C whole by paying into the Union's pension and health/welfare funds the amounts set forth in Attachment C. In summary, the amounts owed by the Respondent are as follows:

Backpay:	\$14,927.50
Pension and health/welfare funds:	\$19,566.00
Total:	\$34,493.50

Dated, Washington, D.C. March 26, 2008

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Peter C. Schaumber, Chairman

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Wilma B. Liebman, Member

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<sup>3</sup> Although Attachment B refers to "personal time owed," the General Counsel is not seeking payment for unpaid personal time because it is not required by the Board's Order.

(SEAL) NATIONAL LABOR RELATIONS BOARD

**ATTACHMENT A**

SENECA FALLS FOODS, LLC d/b/a SENECA FALLS IGA  
CASE 3–CA–26051

Employee Name	Hourly Rate	Average Hrs./Week	2 Weeks	Total
Andreas, Sarah	\$ 6.75	27.50	2	\$ 371.25
Bayles, Rebecca	\$ 6.75	27.50	2	\$ 371.25
Bowman, Adam	\$ 6.75	27.50	2	\$ 371.25
Burt, Douglas	\$ 12.85	27.50	2	\$ 706.75
Clark, Anthony	\$ 6.75	27.50	2	\$ 371.25
Derby, Elaine	\$ 7.25	27.50	2	\$ 398.75
Dickson, Diana	\$ 6.75	27.50	2	\$ 371.25
Dombrowski, Felecia	\$ 6.75	27.50	2	\$ 371.25
DuVall, Sophie	\$ 6.75	27.50	2	\$ 371.25
Faiola, Benny	\$ 10.90	27.50	2	\$ 599.50
Goodman, Peggy	\$ 6.75	27.50	2	\$ 371.25
Martarella, Theresa	\$ 7.70	27.50	2	\$ 423.50
Millis, Lucille	\$ 9.65	27.50	2	\$ 530.75
Minguez, Doreen	\$ 9.85	40.00	2	\$ 788.00
Nicholson, Wayne	\$ 14.75	40.00	2	\$ 1,180.00
Olmstead, Gina	\$ 13.10	40.00	2	\$ 1,048.00
Plate, Linda	\$ 8.05	27.50	2	\$ 442.75
Rossman, Sherry	\$ 7.35	27.50	2	\$ 404.25
Sinicropi, Gabri	\$ 6.75	27.50	2	\$ 371.25
Smith, Robert	\$ 9.75	40.00	2	\$ 780.00
<b>TOTAL</b>				<b>\$10,643.50</b>

4.

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

**ATTACHMENT B**

<b>EMPLOYEE NAME</b>	<b>VACATION TIME OWED</b>	<b>PERSONAL TIME OWED</b>
Wayne Nicholson	\$ 590.00	\$295.00
Bob Smith	\$ 351.00	—
Doreen Minquez	\$ 985.00	—
Gina Olmstead	\$ 917.00	\$157.00
Theresa Martarella	\$ 127.00	—
Elaine Derby	\$ 551.00	\$ 58.00
Doug Burt	\$ 78.00	\$102.00
Lucy Millis	\$ 491.00	\$ 77.00
Sherry Rossman	\$ 136.00	—
Rebecca Doane	\$ 58.00	—
<b>TOTAL</b>	<b>\$4,284.00</b>	<b>\$689.00</b>

**ATTACHMENT C**

SENECA FALLS FOODS, LLC d/b/a SENECA FALLS IGA  
CASE 3–CA–26051

Employee Name	Lay-Off Date	9/06 H.C.	9/06 PEN	10/06 H.C.	10/06 PEN	11/06 H.C.	11/06 PEN	12/06 H.C.	12/06 PEN	1/07 H.C.	1/07 PEN
Sarah Andreas	11/4/2006	\$ 62.00		\$ 62.00		\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Rebecca Bayles	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Adam Bowman	11/4/2006					\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Douglas Burt	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Anthony Clark	11/4/2006					\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Elaine Derby	11/4/2006		\$15.00		\$ 15.00		\$ 15.00		\$ 15.00		\$ 15.00
Diana Dickson	11/4/2006	\$ 62.00		\$ 62.00		\$ 62.00		\$ 62.00		\$ 62.00	
Felecia Dombrowski	11/4/2006			\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Sophie DuVall	11/4/2006			\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Benny Faiola	9/30/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00		
Peggy Goodman	11/4/2006					\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Thereses Martarella	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Lucille Millis	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Doreen Minguez	9/30/2006	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00		
Wayne Nicholson	9/30/2006	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00		
Gina Olmstead	11/4/2006	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00
Linda Plate	9/16/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00		
Sherry Rossman	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Gabri Sinicropi	11/4/2006	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00	\$ 62.00	\$ 15.00
Robert Smith	9/23/2006	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00	\$ 675.00	\$ 80.00		
MONTHLY TOTALS		\$3,320.00	\$455.00	\$3,444.00	\$485.00	\$3,630.00	\$545.00	\$3,630.00	\$545.00	\$1,481.00	\$275.00

**ATTACHMENT C cont'd.**

SENECA FALLS FOODS, LLC d/b/a SENECA FALLS IGA  
CASE 3-CA-26051

Employee Name	Lay-Off Date	2/07 H.C.	2/07 PEN.
Sarah Andreas	11/4/2006	\$ 62.00	\$ 15.00
Rebecca Bayles	11/4/2006	\$ 62.00	\$ 15.00
Adam Bowman	11/4/2006	\$ 62.00	\$ 15.00
Douglas Burt	11/4/2006	\$ 62.00	\$ 15.00
Anthony Clark	11/4/2006	\$ 62.00	\$ 15.00
Elaine Derby	11/4/2006		\$ 15.00
Diana Dickson	11/4/2006	\$ 62.00	
Felecia Dombrowski	11/4/2006	\$ 62.00	\$ 15.00
Sophie DuVall	11/4/2006	\$ 62.00	\$ 15.00
Benny Faiola	9/30/2006		
Peggy Goodman	11/4/2006	\$ 62.00	\$ 15.00
Thereses Martarella	11/4/2006	\$ 62.00	\$ 15.00
Lucille Millis	11/4/2006	\$ 62.00	\$ 15.00
Doreen Minguez	9/30/2006		
Wayne Nicholson	9/30/2006		
Gina Olmstead	11/4/2006	\$ 675.00	\$ 80.00
Linda Plate	9/16/2006		
Sherry Rossman	11/4/2006	\$ 62.00	\$ 15.00
Gabri Sinicropi	11/4/2006	\$ 62.00	\$ 15.00
Robert Smith	9/23/2006		
MONTHLY TOTALS		\$1,481.00	\$275.00

	<u>H.C.</u>	<u>PENSION</u>	<b>GRAND TOTAL</b>
<b>TOTAL PER FUND</b>	<b>\$ 16,986.00</b>	<b>\$ 2,580.00</b>	<b>\$ 19,566.00</b>